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7 Attorneys for HILDA SOLIS, Secretary of Labor,  
United States Department of Labor

UNITED STATES DISTRICT COURT

## DISTRICT OF ARIZONA

12           HILDA SOLIS, Secretary of Labor,  
13           United States Department of Labor,  
14    } Case No.:  
15    } COMPLAINT FOR  
16    } VIOLATIONS OF THE  
17    } FAIR LABOR STANDARDS ACT  
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I.

20 Plaintiff HILDA SOLIS, Secretary of Labor, United States Department of  
21 Labor, brings this action to enjoin Defendants HI-HEALTH SUPERMART  
22 CORPORATION, an Arizona corporation, and SIMON CHALPIN, an individual,  
23 from violating the provisions of sections 7 and 15 of the Fair Labor Standards Act  
24 of 1938, as Amended, 29 U.S.C. § 201, *et seq.* (hereinafter “the Act”), pursuant to  
25 section 17 of the Act; and to recover unpaid overtime compensation owing to  
26 Defendants’ employees, together with an equal amount as liquidated damages,  
27 pursuant to section 16(c) of the Act.

28 | //

1 II.

2 Jurisdiction of this action is conferred upon the court by sections 16(c) and  
3 17 of the Act and 28 U.S.C. §1345.

4 III.

5 (a) Defendant Hi-Health Supermart Corporation (hereinafter "Hi-  
6 Health") is and at all times hereinafter mentioned was an Arizona corporation with  
7 an office and a place of business at 7428 E. Karen Drive, Scottsdale, Arizona,  
8 within the jurisdiction of this court and is and at all times hereinafter mentioned  
9 was engaged in the business of retail distribution of health items.

10 (b) Defendant SIMON CHALPIN, an individual, resides in Carefree,  
11 Arizona, within the jurisdiction of this court, and at all times hereinafter mentioned  
12 acted directly or indirectly in the interest of Defendant Hi-Health in relation to its  
13 employees.

14 IV.

15 Defendant Hi-Health is and at all times hereinafter mentioned was engaged  
16 in related activities performed through unified operation or common control for a  
17 common business purpose and is and at all times hereinafter mentioned was an  
18 enterprise within the meaning of section 3(r) of the Act.

19 V.

20 Defendant Hi-Health at all times hereinafter mentioned was an enterprise  
21 engaged in commerce or in the production of goods for commerce within the  
22 meaning of section 3(s)(1)(A) of the Act in that said enterprise at all times  
23 hereinafter mentioned had employees engaged in commerce or in the production of  
24 goods for commerce, or employees handling, selling, or otherwise working on  
25 goods or materials that have been moved in or produced for commerce by any  
26 person and in that said enterprise has and has had an annual gross volume of sales  
27 made or business done of not less than \$500,000.

28 ///

1 VI.

2 Defendants have repeatedly violated the provisions of sections 7 and  
3 15(a)(2) of the Act, by employing many of their employees who were engaged in  
4 commerce or in the production of goods for commerce, or who were employed in  
5 an enterprise engaged in commerce or in the production of goods for commerce,  
6 within the meaning of the Act, as aforesaid, for workweeks longer than forty hours  
7 without compensating said employees for their employment in excess of forty  
8 hours per week during such workweeks at rates not less than one and one-half  
9 times the regular rate at which they were employed.

10 VII.

11 During the period since at least June 1, 2008, Defendants, as employers  
12 subject to the provisions of the Act, have repeatedly violated and continue to  
13 violate the aforesaid provisions of the Act. A judgment that enjoins and restrains  
14 such violations and includes the restraint of any withholding of payment of unpaid  
15 overtime compensation found by the court to be due to present and former  
16 employees under the Act is expressly authorized by section 17 of the Act.

17 **WHEREFORE**, cause having been shown, Plaintiff prays for a judgment  
18 against Defendants as follows:

19 1. For an Order pursuant to section 17 of the Act, permanently enjoining  
20 and restraining Defendants, their officers, agents, servants, employees, and those  
21 persons in active concert or participation with them from prospectively violating  
22 the provisions of section 15 of the Act; and

23 2. For an Order:

24 (a) pursuant to section 16(c) of the Act finding Defendants liable  
25 for unpaid overtime compensation due Defendants' employees and for liquidated  
26 damages equal in amount to the unpaid compensation found due defendants'  
27 employees listed in the attached Exhibit A (additional back wages and liquidated  
28 damages may be owed to certain employees presently unknown to Plaintiff for the

1 period covered by this complaint); or in the event liquidated damages are not  
2 awarded; and

9           3. For an Order awarding Plaintiff the costs of this action; and  
10          4. For an Order granting such other and further relief as may be  
11 necessary or appropriate.

12 | Dated: April 7, 2011

M. PATRICIA SMITH  
Solicitor of Labor

## LAWRENCE BREWSTER Regional Solicitor

DAVID M. KAHN  
Counsel for ESA Programs

/s/  
ISABELLA M. FINNEMAN  
Senior Trial Attorney  
  
U.S. DEPARTMENT OF LABOR  
Attorneys for Plaintiff

1 EXHIBIT A  
2

3 AGUILAR, BAUDELIO R.  
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5 ALLEN, KRISTIE L.  
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7 ANTHONY, DANIEL S.  
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9 ARANGURE, CARLA R.  
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11 AUERBACH, MICHELLE D.  
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13 AUSTIN, JOHN D.  
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15 BARDAWEEL, ALEXANDER N.  
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17 BARNES, MONTANA S.  
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19 BAUER, BRENDA M.  
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21 BEALE, JEREMIE M.  
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23 BERNS, ANDREA D.  
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25 BRODERICK, TRUDI M.  
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27 BUNTEN, REBECCA W.  
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29 BUSH, KRISTINE L.  
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31 COLON, PATRICK T.  
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33 CONS, ROBIN L.  
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35 CRUM, VICTORIA M.  
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37 DAMICO, JAMES  
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39 DEEMS, WENDY P.  
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41 DIAMOND, BONNIE L.  
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1 ENRIQUEZ, SONIA  
2 FOSHEE, SUZETTE A.  
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4 GALLAGHER, RICHARD T.  
5 GODDIN, SHERELYN E.  
6 GOLLY, NICOLE E.  
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8 GUZMAN, DANIEL  
9 HAMEDANIZADEH, PARVIN  
10 HARMON, VALERIE M.  
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12 HASAN, QAZI M.  
13 HEISER, DANIEL W.  
14 HILL, PAULA R.  
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16 JANMAN, JAIME L.  
17 JOHNSON, HANNAH B.  
18 KOOLSTRA, JOHN H.  
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20 LENHARDT, DANA M.  
21 LILLY, ORAN A.  
22 LOPEZ, JOHN R.  
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24 LOPEZ, JUAN D.  
25 LOSTUMO, ROSEMARY  
26 LYSON, SEAN T.  
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28 MARSCHEL, WILLIAM S.

1 MCENTIRE, KIMBERLEE A.  
2 MEAD, MANDI M.  
3 MEEK, SONIA R.  
4 MICKLEBOROUGH, ALEXIA J.  
5 MORRIS, CYNTHIA M.  
6 NUSSER, NANCY A.  
7 O'DONNELO, MARILYN S.  
8 OLLENDICK, JENNIFER  
9 PATRIDGE, CHRISTINA N.  
10 PLACEK, JEFF M.  
11 PORCELLI, CHERYL K.  
12 SCHOLBERG, ERIC B.  
13 SCOVILLE, LILIAN V.  
14 SERVIN, MEGEN A.  
15 SIMPSON, JASON M.  
16 STEPHENS, REBECCA  
17 STORZ, ERNEST J.  
18 TAFOYA, DANIEL D.  
19 TAYLOR, JOSHUA J.  
20 TRAMMEL, GABRIELLE L.  
21 WESTBROOK, ELIZABETH A.

1 WHEAT, KATIE M.

2 WILSON, NANCY

3 WOODS, YVONNE N.

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